



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

December 16, 1996

Mr. Arnold Viramontes
Executive Director
Telecommunications Infrastructure Fund Board
P.O. Box 12428
Austin, Texas 78711

OR96-2408

Dear Mr. Viramontes:

You ask whether certain information is subject to required public disclosure under the Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 102436.

The Telecommunications Infrastructure Fund Board (the "Board") received a request for "materials considered at your September 12, 1996, meeting regarding the 'Master Plan' currently under development." You assert that portions of the requested information are excepted from required public disclosure based on Government Code section 552.111.

Section 552.111 of the Government Code excepts from required public disclosure:

An interagency or intraagency memorandum or letter that
would not be available by law to a party in litigation with the agency.

This exception applies to a governmental body's internal communications consisting of advice, recommendations, or opinions reflecting the policymaking process of the governmental body at issue. *See* Open Records Decision No. 615 (1993). This exception does not except from disclosure purely factual information that is severable from the opinion portions of the communication. *See id.* In Open Records Decision No. 559 (1990), the attorney general held that the predecessor statute to section 552.111 protects drafts of a document that has been or will be released in final form and any comments or other notations on the drafts because they necessarily represent the advice, opinion and recommendation of the drafter as to the form and content of the final document.

You have labeled a portion of the requested information as a draft. Relying on the assumption that the labeled portion is a genuine draft of a document that has been or will be released in final form, we conclude that the Board may withhold that portion from required public disclosure based on Government Code section 552.111. See Open Records Decision No. 559 (1990).

We are resolving this matter with this informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and may not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in black ink, appearing to read "Kay Guajardo", with a long horizontal flourish extending to the right.

Kay Guajardo
Assistant Attorney General
Open Records Division

KHG/rho

Ref.: ID# 102436

Enclosures: Submitted documents

cc: Lynn M. Moak
Director
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(w/o enclosures)